

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

ARTICLE 30. Nectarines

ARTICLE 34. Peaches

(Notice published November 24, 2006)

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Article 30, Section 1446.9 and Article 34, Section 1454.16, of the regulations in Title 3 of the California Code of Regulations pertaining to standardized fruit size, specifically nectarine and peaches.

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comment relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on January 8, 2007. The Department will consider only comments received at the Department offices by that time.

Comments may be mailed to:

Kevin Masuhara, Program Supervisor
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

Comments may be personally delivered to:

Kevin Masuhara, Program Supervisor
Inspection and Compliance Branch
California Department of Food and Agriculture
560 J Street, Suite 220
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407, and 42682 of the Food and Agricultural Code, and to implement, interpret, or make specific Section 42941 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 3 of the California Food and Agricultural Code declares that the provisions of the code are enacted for the purposes of promoting and protecting the agricultural industry of the state and for the protection of the public health, safety, and welfare. Section 407 declares that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which he is directed or authorized to administer or enforce.

Section 42682, of the Food and Agricultural Code declares that the Secretary of Food and Agriculture may modify standard container, lid, marking, sizing requirement for commodities, and packing arrangement for any fruits, nuts, or vegetables, for which specific quality standards have otherwise been provided by law or regulation.

To comply with these sections of the Food and Agricultural Code the Department is proposing to amend the following sections to the California Code of Regulations (CCR):

- Section 1446.9, addition of subsection d, to add size variation, tolerance, and size description requirements for Peento type nectarines.
- Section 1454.16, addition of subsection d, to add size variation, tolerance, and size description requirements for Peento type peaches.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.

Other nondiscretionary cost or saving imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: The Department is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action:

Adoption of these regulations will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing businesses within California; or

3. Affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

EFFECT ON SMALL BUSINESS

The Department has initially determined that these proposed changes in the regulations would result in no added costs to small businesses affected by these proposed changes and would have a positive effect on such businesses. This is based on the fact that the proposal offers a new standard container and more flexibility of an existing container for shipping of apricots, nectarines, peaches, and plums and fresh prunes. The proposed amendments meet the needs of the affected commodity groups without requiring change on the part of industry.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Kevin Masuhara, Program Supervisor
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

The backup contact person for these inquiries is:

Susan Shelton, Staff Services Analyst
Inspection and Compliance Branch
California Department of Food and Agriculture
1220 N Street, Sacramento, CA 95814
Telephone: (916) 445-2180; Fax: (916) 445-2427

Please direct requests for copies of the proposed text of the regulations, the initial statement of reason, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Ms. Shelton at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the rulemaking file available for inspection and copying

throughout the rulemaking process at its office at 560 J Street, Suite 220, Sacramento, CA 95814. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, the letter of petition from the California Agricultural Commissioners & Sealers, and minutes to the Standardization Advisory Committee meeting. Copies may be obtained by contacting Ms. Shelton at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Shelton at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Shelton at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at: www.cdfa.ca.gov/is/regulation.htm

DEPARTMENT OF FOOD AND AGRICULTURE

Date

Valerie Brown, Deputy Secretary